

**Remarks**

Claims 1-40 are pending in the application.

Claims 1-16, 18, 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Weare et al. US 7,065,416 (Weare).

Claims 20, 24-29, 31-32, 34-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Larouche US 6,453,252 (Larouche).

Claims 5-6, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weare.

Claims 30, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larouche.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims

has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

### **Rejection Under 35 U.S.C. 102**

#### **Claims 1-16, 18, 21-23**

Claim 1 has been amended to more clearly define the invention. The following arguments are provided in response to the specific points of rejection suggested by the Examiner.

Claims 1-16, 18, 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Weare. The rejection is respectfully traversed.

Anticipation requires the presence, in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. The Weare reference fails to disclose each and every element of the claimed invention, as arranged in independent claim 1.

Weare does not teach the claimed “filtering each first frequency domain representation of blocks of said media program using a plurality of filters to develop a respective second frequency domain representation of each of said blocks of said media program, said second frequency domain representation of each of said blocks having a reduced number of **frequency coefficients** with respect to said first frequency domain representation.” The examiner asserts this claim element is taught by Weare’s “critical band filtering” step, of Figures 7 and 8. This is incorrect. Critical-band filtering is a characterization (or more accurately an approximation) of what takes place in the human ear that enables a listener to perceive a pitch among background noise. Weare explains “the human auditory system has a limited, frequency-dependent resolution and thus sonic characterization that includes a filter to account for this fact...this is known generally as critical band filtering” (col. 16. lines 25-28). Critical-band filtering is in no way related to the claimed frequency domain filtering/reducing of *frequency coefficients*, “achieved,

for example, using the well-known fast Fourier transform” (page 6, line 36, to page 7, line 1), as detailed in the specification.

Referring to the claimed “grouping frequency coefficients,” the Examiner contends “critical band filtering forms several critical bands, interpreted by the Examiner as groups.” Auditory *critical bands*, have nothing to do with frequency domain (Fourier, etc.) analysis, or “frequency coefficients.” *Critical bands*, or more specifically *critical bandwidths*, relate to human hearing, and resonance ranges of the respective ear (basilar membrane) structures, which permit perception of sound within specific frequency ranges (bands). Weare explains “critical bands have less than a 100 Hz width at the lowest audible frequencies, and a width of more than 4 kHz at the high end of the perceptually observable frequency spectrum...about 25 critical bands” (col. 16, lines 31-36). Hence, critical bands and/or critical bandwidth, relates to the physical properties of the ear and/or trying to replicate those characteristics, *not* analytical frequency domain analysis or “frequency coefficients.” Therefore, Weare does not teach or suggest each and every element of the claimed invention, as arranged in Applicants' independent claim 1.

As such, independent claim 1 is not anticipated by Weare and is patentable under 35 U.S.C. 102. Claims 21, 22 and 23 recite relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, these independent claims also are not anticipated by Weare and are patentable under 35 U.S.C. 102.

Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Weare.

Therefore, Applicants' claims 1-16, 18, 21, 22 and 23 are allowable over Weare. under 35 U.S.C. 102. The Examiner is respectfully requested to withdraw the rejection.

**Claims 20, 24-29, 31-32, 34-40**

Claims 20, 24-29, 31-32, 34-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Larouche.

Claims 20 and 40 are cancelled

The rejection of claims 24-29, 31-32, and 34-40 is traversed.

Anticipation requires the presence, in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim(s) being scrutinized. Regarding independent claims 24, 34, and 35, the Larouche reference does not meet this criteria.

The office action asserts Larouche teaches the claimed “reduced number of frequency coefficients.” This is incorrect. With respect to Figure 1, Larouche teaches performing Fourier analysis to transform an audio signal into frequency domain, whereafter the signal is divided into ‘N’ frequency bands, that are “analyzed based on their energy content” (Abstract; col. 2, lines 36-48). Ascertaining “energy content” has nothing to do with obtaining or analyzing frequency content, but is instead only concerned with *magnitude*. Larouche explains “the magnitude of the first few values of these frequency-domain signals are then extracted and concatenated to form the fingerprint” (col. 2, lines 46-48, emphasis added). Since Larouche only teaches and is based on analyzing *magnitude*, there is simply no reason for it to teach analyzing the *frequency content* (i.e. frequency coefficients) of the signal, much less producing a “reduced number of frequency coefficients.” Hence, Larouche does not teach or suggest each and every element of the claimed invention, as arranged in Applicants' independent claims 24, 34, and 35.

As such, independent claims 24, 34, and 35 are not anticipated by Larouche and are patentable under 35 U.S.C. 102. Claims 25-29, 31-32 recite relevant limitations similar to those recited in independent claim 24, and claim 36 recites relevant limitations similar to those recited in independent claim 35. As such, and at least for the same reasons as discussed above, these independent claims also are not anticipated by Larouche and are patentable under 35 U.S.C. 102.

Regarding claims 37-39, dependent claims 38-39 have been cancelled, and their limitations placed currently amended independent claim 37, from which they originally depended. Claim 37 discloses a computer readable storage medium, configured to store respective media program identifiers, arranged in a manner described by limitations similar to those appearing in independent claims 21 and 24, which have already been shown to be allowable. As such, currently amended independent claim 37 is not

anticipated by Larouche, and is patentable under 35 U.S.C. 102, at least for the same reasons already discussed regarding the preceding claims.

The arguments presented above have shown that original claims 24-29, 31-32, 34-36, and currently amended claim 37 are allowable over Larouche. under 35 U.S.C. 102. The Applicant respectfully requests the Examiner withdraw the rejection.

#### **Rejection Under 35 U.S.C. 103(a)**

Claims 5-6, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weare. Claim 30, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larouche. The rejections are traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejections under 35 U.S.C. 102 given Weare or Larouche. Since the rejections under 35 U.S.C. 102 given Weare and Larouche have been overcome, these grounds of rejection cannot be maintained.

Therefore, Applicants' claims 5-6, 17, 19, 30 and 33 are allowable over Weare and Larouche under 35 U.S.C. 103(a).

#### **Secondary References**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.


**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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